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OFFICE OF PETITIONS

In re Application of
Asano, et al.
Application No. 10/735,627
Filed: December 16, 2003
Attorney Docket No. 740756-2688

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: DECISION GRANTING PETITION
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This is a decision on the "PETITION REGARDING NOTICE OF OMITTED ITEMS IN A NONPROVISIONAL APPLICATION", filed October 27, 2004, requesting that the above-identified application be accorded a filing date of December 16, 2003.

Application papers in the above-identified application were filed on December 30, 2003. On April 27, 2004, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application", informing Applicants that the application had been accorded a filing date of December 16, 2003. The Notice set an extendable period of two months for applicant to submit: (1) an English translation of the specification (together with a statement that the translation is accurate); (2) the surcharge for filing a non English specification; and (3) replacement drawings.

On July 27, 2004, Applicants filed the above items in reply to the Notice to File Missing Parts. Applicants' submission was made timely with the purchase of a one month extension of time. However, on September 2, 2004, the Office mailed a "Withdrawal of Previously Sent Notice" and a "Notice of Omitted Items in a Nonprovisional Application". Applicants were notified that the

Notice to File Missing Parts mailed April 27, 2004 was mailed in error. In addition, applicants were informed that pages 21 and 25 of the specification, and Figures 8 and 9 of the drawings, appeared to have been omitted. Applicants were notified that they could contend these missing pages and figures had been previously filed, or submit them accept the date of their submission as the filing date of the application.

In response, on October 27, 2004, Applicants submitted a copy of the English language translation, including pages 21 and 25, a substitute specification, and replacement drawings. Applicants admit that Figures 8 and 9 were omitted when submitted in response to the Notice to File Missing Parts, but state that the Figures were present in the Japanese language application filed on December 16, 2003. In addition, applicants state that the complete Japanese language application was filed on December 16, 2003, and that the application should maintain its filing date of May 30, 2003.

Even though Figures 8 and 9 were not included in the English language translation filed on July 27, 2004, the "Notice of Omitted Items" should not have been mailed in this circumstance. Clearly Figures 8 and 9 were contained in the Japanese language application filed on December 16, 2003.

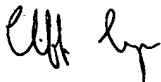
In view of the above, the "Notice of Omitted Items" mailed on September 2, 2004 was mailed in error and is hereby VACATED.

The petition is GRANTED.

Given the basis for granting this petition, no petition fee was required, and none has been charged.

The application file is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of December 16, 2003, using the pages of substitute specification filed on July 27, 2004, and Figures 8 and 9 of the drawings as resupplied on petition filed October 27, 2004.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions